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NRN-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Natalie Rose NOEL

Serial No.: 10/090,889

Filed: Mar. 4, 2002

For: Breast Restraint for Athletic
Activity

Art Unit: 3765

Examiner: Gloria M HALE

Tel: (571) 272-4984

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Notice of Abandonment Mailed:

Dec. 1, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON EVIDENCE THAT A REPLY WAS TIMELY MAILED OR FILED**

This paper is responsive to a Notice of Abandonment mailed on Dec. 1, 2004, and further to a Response to Notice of Abandonment filed today.

After filing the Response to Notice of Abandonment, Applicants' representative contacted the Office and determined that the Office apparently does not have a record of receiving the Notice of Appeal or the Appeal Brief. Accordingly, Applicants are now filing this Petition with appropriate evidence indicating that the Notice of Appeal and Appeal Brief were timely filed.

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NOTICE OF APPEAL:

Applicants are submitting herewith a copy of the postcard receipt for the Notice of Appeal. The postcard receipt is stamped Aug 05 2004 by the OIPE. Under MPEP § 503, this postcard receipt represents prima facie evidence that the Notice of Appeal was timely filed.

In addition, Applicants are submitting herewith the actual Notice of Appeal, which includes a Certificate of Mailing that indicates the Notice of Appeal was mailed on Aug. 3, 2004. As mentioned in the earlier filed Response to Notice of Abandonment, this date is before the three month due date for responding to the May 4, 2004 Office Action.

Applicants' representative Dane C. Butzer hereby attests to the previous timely mailing of the Notice of Appeal on his own personal knowledge basis. In particular, Mr. Butzer is the person who signed the Certificate of Mailing and deposited the Notice of Appeal in the mail on the date of the Certificate.

APPEAL BRIEF:

Applicants have not yet received the postcard receipt for the Appeal Brief. Applicants are submitting herewith a printout of the postcard receipt as filed for informational purposes.

As evidence of timely filing, Applicants are submitting herewith a copy of the Transmittal Form that accompanied the Appeal Brief. The Transmittal Form includes a Certificate of Transmission/Mailing that indicates the Appeal Brief was mailed on Dec. 5, 2004, four months after the Office received the Notice of Appeal. As mentioned in the earlier filed Response to Notice

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of Abandonment, the Appeal Brief was timely as Applicants had two months to file an Appeal Brief, and this deadline could be extended up to five months under 37 C.F.R. 1.136(a). See MPEP § 1206.

Applicants' representative Dane C. Butzer hereby attests to the previous timely mailing of the Appeal Brief on his own personal knowledge basis. In particular, Mr. Butzer is the person who signed the Certificate of Mailing and deposited the Appeal Brief in the mail on the date of the Certificate.

Applicants are also submitting herewith the Petition for Extension of Time that accompanied the brief and the actual Appeal Brief for the Office's reference.

TIMELINESS OF PETITION:

This filing is timely as it is being filed within two months of the mailing date of the Notice of Abandonment. See 37 C.F.R. 1.137(e).

DECLARATION:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

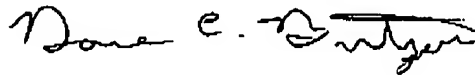
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CLOSING:

This Petition is accompanied by sufficient evidence to support that Applicants' Notice of Appeal and Appeal Brief were timely filed. Accordingly, withdrawal of the abandonment of this case is earnestly solicited.

Applicants' undersigned attorney can be reached at (614) 486-3585. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,



Dated: January 24, 2005

Dane C. Butzer
Reg. No. 43,521

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